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September 11, 2014

BY ECF AND U.S. MAIL

Honorable William H. Pauley III
United States District Court Judge
500 Pearl Street, Room 2210
New York, New York 10007-1312

Re: *In Re: Platinum and Palladium Commodities Litig.*, 10-cv-3617 (WHP) (S.D.N.Y.)

Dear Judge Pauley:

As an attorney for the Futures Plaintiffs (“Plaintiffs”), I am respectfully submitting this letter in order to notify the Court of problems with the notice to the Futures Class in connection with Plaintiffs’ proposed settlement with the Moore Capital Defendants and Defendant Joseph Welsh (“Settlement”), and the steps Futures Class Counsel are taking to solve and overcome same, which will involve a request for adjournment of various dates which Futures Class Counsel will propose after the occurrence of certain events described below.

On July 15, 2014, the Court preliminarily approved the proposed Settlement and ordered the Settlement Administrator (A.B. Data, Ltd.) to execute the Court-approved program of notice to the Futures Class. Dkt. No. 212.

The multi-pronged program of notice included: (1) mail notice to all “large traders” in New York Mercantile Exchange (“NYMEX”) platinum and palladium futures contracts during the Class Period whose names were obtained pursuant to subpoena to the NYMEX; (2) mail notice to all clearing brokers on the NYMEX during the Class Period whose names were obtained pursuant to subpoena to the NYMEX (with the direction that such firms should forward the notice to their relevant customers or provide the names and addresses of any such relevant customers to the Settlement administrator); (3) published notice in Futures Magazine, Stock and Commodities Magazine and The Wall Street Journal and further published notice on the websites of Futures Magazine and Stock and Commodities Magazine; and (4) the establishment of a settlement website which is searchable on the internet and which allows members of the Futures Class to obtain information about the proposed Settlement. *Id.*, ¶¶7-9.

Futures Class Counsel have been monitoring the Settlement Administrator, which has reported that the mail notice to the large traders and clearing members was completed in accordance with the preliminary approval order, the publication notice has commenced and continues in accordance with the preliminary approval order, and that the settlement website was established and remains available online in accordance with the preliminary approval order.

After completion of the mail notice, the Settlement Administrator has been seeking to contact the NYMEX clearing firms in an effort to see whether additional members of the Futures

Page 2 of 3

Honorable William H. Pauley III
September 11, 2014

Class could be identified for purposes of providing mail notice of the proposed Settlement. To date, five clearing firms have provided addresses of potential members of the Futures Class to the Settlement Administrator. This has resulted in the mailing of approximately 918 additional notices.

The Settlement Administrator believes that at least ten additional clearing firms are likely to provide addresses or confirm that they have forwarded the notice to their relevant customers. The Settlement Administrator is continuing to follow up with the remaining clearing firms in an effort to identify any further potential members of the Futures Class to whom notice of the proposed Settlement may be mailed.¹

Futures Class Counsel believe that Defendant MF Global, Inc. (“MF Global”) was by far the largest NYMEX clearing firm during all or part of the Class Period. Futures Class Counsel have been directly working in order to obtain, despite the bankruptcy stay, MF Global’s relevant customer names and addresses. This process has been complicated by the fact that MF Global is currently in Chapter 11 liquidation (and thus is not operational) and also because, Plaintiffs understand, the relevant customer information is stored in a manner that was not readily accessible. As a result, the documents have not yet been provided. In Class Counsel’s judgment, this necessitates an adjournment of various deadlines and the class action fairness hearing.

Futures Class Counsel presently are informed by counsel for the Trustee of the MF Global estate, that MF Global should be able to provide the Settlement Administrator with the names and addresses shortly. After receipt of these documents, Futures Class Counsel will propose adjournments of the following Settlement-related dates.

Event	Current Deadline
Status Report on Notice Program	October 1, 2014
Request for Exclusion Deadline	October 3, 2014
Fairness and Fee Brief Deadline	October 8, 2014
Objection Deadline	October 15, 2014
Statement Regarding Compliance with Notice Program	October 31, 2014
Fairness Hearing	November 7, 2014 at 11:00 a.m.
Proof of Claim Deadline	January 21, 2015

The reasons for Futures Class Counsel’s judgment and proposal includes the following. Additional time is needed in order to allow the Settlement Administrator to process and mail notice to the potential members of the Futures Class that MF Global anticipates providing. These potential members of the Futures Class will need a reasonable amount of time to evaluate the proposed Settlement and consider their options thereunder. Separately, the requested

¹ The NYMEX provided the names of approximately fifty-five clearing firms that operated during the Class Period. However, due to bankruptcies, industry consolidation and the relatedness of certain clearing firm entities identified by the NYMEX, the Futures Plaintiffs estimate that, for practical purposes, there are approximately thirty to thirty-five relevant entities.

Page 3 of 3

Honorable William H. Pauley III

September 11, 2014

additional time will also allow the Settlement Administrator to continue its work with the NYMEX clearing firms in order to identify any additional members of the Futures Class to whom individual notice may be mailed.

In the event the Court grants the anticipated requested relief, notice of the revised dates will be provided to members of the Futures Class through the settlement website. Both the mail notice and the publication notice referred members of the Futures Class to the settlement website.

Thank you very much.

Respectfully submitted,
/s/ Christopher Lovell
Christopher Lovell

cc: Counsel of Record (by ECF)